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27 UNITED BEHAVIORAL HEALTH

28
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

29 **DAVID WIT et al.,**

30 Plaintiffs,

31 v.

32 **UNITED BEHAVIORAL HEALTH,**

33 Defendant.

Case No. 14-cv-02346 JCS

Related Case No. 14-cv-05337 JCS

**DECLARATION OF DR. ANDREW
MARTORANA IN SUPPORT OF UNITED
BEHAVIORAL HEALTH'S REPLY
SUPPLEMENTAL REMEDIES BRIEF
(TOPICS 2, 4, AND 6)**

Hon. Joseph C. Spero

1 **GARY ALEXANDER et al.,**

2 Plaintiffs,

3 v.

4 **UNITED BEHAVIORAL HEALTH,**

5 Defendant.

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1 I, Dr. Andrew Martorana, declare and state as follows:

2 1. I am over the age of eighteen years and am competent to testify to the foregoing if
3 called to do so. I am making this declaration based on my personal knowledge of the facts stated
4 herein, and if called as a witness, could and would testify competently thereto.

5 2. I am employed by OptumHealth as a Senior Behavioral Medical Director.
6 OptumHealth is a brand name of United Behavioral Health (“UBH”). I also serve as the chair of
7 UBH’s Utilization Management Committee, which is the committee responsible for, among other
8 things, approving clinical criteria and other policies utilized by UBH’s Care Advocates,
9 Psychologist Peer Reviewers, and Medical Directors in determining behavioral health benefits
10 under the terms of the health benefit plans administered by UBH.

11 3. I have been employed as a Medical Director (including my current role as a Senior
12 Behavioral Medical Director) for UBH for nearly 18 years.

13 4. On November 18, 2019, UBH’s Utilization Management Committee approved a
14 Behavioral Clinical Policy entitled “Behavioral Clinical Policy: American Society of Addiction
15 Medicine (ASAM) Level of Care 3.1 and 3.3 Coverage Criteria” (the “2019 Policy”).

16 5. The 2019 Policy is intended to describe the plan coverage available under the
17 terms of the health benefit plans administered by UBH as it relates to services provided at ASAM
18 Levels of Care 3.1 and 3.3. For this reason, the 2019 Policy states that it must be read in
19 conjunction with “the member’s specific benefits.” If a particular plan defines coverage
20 “differently or there is otherwise a conflict between [the] guideline and the member’s specific
21 benefit, the member’s specific benefit supersedes” the 2019 Policy. Further, in the event that a
22 member’s plan provides for different coverage, the Policy explicitly notes that “[o]ther clinical
23 criteria may apply.”

24 6. The 2019 Policy is not based on, and does not interpret, plan terms regarding
25 “medical necessity” or “generally accepted standards of care.” The 2019 Policy instead relates to
26 different plan terms, including but not limited to plan terms regarding state licensure
27 requirements, plan definitions of covered behavioral health services and residential treatment, and
28 plan exclusions for “transitional living” or similarly-defined services.

1 7. Where the policy applies, UBH Care Advocates and Medical Directors are to deny
2 coverage based on the 2019 Policy (or the plan terms addressed by the 2019 Policy), and not
3 based on the ASAM Criteria or plan terms relating to “medical necessity” or “generally accepted
4 standards of care.”

5 8. In the event that UBH were to determine that services at ASAM Levels 3.1 or 3.3
6 are covered behavioral health benefits under a member’s plan and proceed to review the
7 requested ASAM 3.1 or 3.3 services for medical necessity, UBH Care Advocates and Medical
8 Directors are to apply the ASAM Criteria.

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10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed this 1st day of July 2020, at Wilmette, Illinois.

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14 Dr. Andrew Martorana
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